

1900-003 Chancery Causes: Pennington Gap Improvement Co] vs. Louisville & Nashville Railroad Co] & Lee Co.

Johnson

- Deed

CA - Contract Dispute

T - Property
Transportation

TO the Hon.H.A.W.Skeen,Judge of the Circuit Court for Lee County,Virginia;

The bill of complaint of the Pennington's Gap Improvement Company,a corporation organized under the laws of the State of Virginia;which humbly complaining would respectfully represent that the object of their incorporation was the purchase and sale of real estate in and about Pennington Gap, Lee County, Virginia. That in the course of their transactions they acquired the title to a considerable quantity of lands in the vicinity mentioned, among which was the land in Pennington Gap, a gorge of the Cumberland Mountain, through which the North Fork of Powells River makes its way. And the said Cumberland mountain at this point, commonly known as the Stone Mountain is the boundary to the coal measures that lie to the north. About one mile to the south of the gap proper, the town of Pennington Gap is situated, and through this town the Louisville and Nashville Railroad passes, and in which town their depot is situated. A little before the 25th day of Aug. 1890, the said Railroad Company made known to your complainant that they desired a right of way for a branch road extending from their track near the depot northward through Pennington Gap to the said coal measures. The said Railroad Company had, by an act approved March the 30th, 1887, passed by the legislature of the State of Virginia, obtained an enabling act authorizing them to construct branch roads to their main line. (See acts of 1887, page 19-20) So on the 25th day of August, 1890, your complainant conveyed to them, the said Louisville and Nashville Railroad Company, a right of way for a branch road from their main line in Pennington Gap, northward through and over their lands as far as the same extended, about two miles. In addition to said right of way, in order to give said railroad ample facilities, they also conveyed along with said right of way a triangle of land lying

between the said right of way and the Company's other land, near to and a little north of the depot in Pennington Gap, The conveyance of these lands is properly and fully set out by your complainant's deed of conveyance executed by its president and secretary, a copy of which is here filed, marked "DEED", and payed to be considered herewith as a part of this bill.

By an inspection of that part of the charter herein before referred to on page 20, section 4, it will be seen that said Company shall begin work within two years, and complete the same within five years from the date of this act; otherwise the rights and privileges hereby granted, shall cease and become void.

17 Your petitioner allege that said Company has never commenced any work upon said branch road nor done any thing toward its construction. They have, however, claimed said right of way and exercised rights of ownership over it and have taken into possession said parcel or strip of land referred to as said triangle; have leased it out, had it fenced and in cultivation for several years, and their lessee, A. Johnson Esqr. has now constructed a building to be used as a stable and barn on said lot. Your complainant has notified the said Johnson not to do^{so}, and has in writing notified said Company that they claimed said lot and that by plain provision of their charter and their failure to comply therewith, the same has become forfeited to your complainant, and said right of way and land has reverted to and vested in them, and the said Company has been requested, to avoid further trouble, to convey said lot and right of way back to your complainant. Copies of each of these notices are herewith filed marked "1" & "2", and are prayed to be considered as part hereof. Your complainant alleges that at the time they made and executed said deed it was agreed and made part of said contract that said

land would revert to them if said branch road was not, in accordance with said act, begun and completed as therein set out.

But your complainant is advised that, if they are mistaken in this their view of their case, that by the terms of their deed of conveyance, to the said Railroad Company, and by the laws of Virginia, said Railroad Company has no right to lease said land or build upon the same except for rail-road purposes alone, and they are informed and believe that said building is for no such purpose.

The object of this bill is to have said Railroad Company's charter, so far as these lands are concerned, declared void and inoperative and said Railroad Company, its agent and lessee, A. Johnson, enjoined and inhibited from constructing or building any other building upon said lot until the future order of this court. That upon a hearing a decree be rendered annulling said charter as to these lands and setting aside the conveyance made by these complainants to the said Railroad Company, dated Aug. 25th, 1890, and that said Company be compelled to re-convey said right of way and triangle of land back to your complainant; to do which they pray that the Louisville and Nashville Railroad Company, a body corporate, under and by virtue of the laws of the State of Kentucky, and the act aforesaid, and doing business in Virginia, and A. Johnson be made parties to this bill of complaint, and be required to answer each and every allegation thereof, but they need not do so upon oath, that being expressly waived; and that all other further and general relief be granted your complainant as as the nature of their cause may demand. And they will ever pray &c.

PENNINGTON'S GAP IMPROVEMENT CO.

By Its Attorneys,
Pridemore and Sewell
&
Robert L. Pennington.

Pennington & Sons Imp. Co.

vs Bill in Chancery

D. & N. R. R. Co.

1900, 2nd Feby Rules Bill
filed & alias & presented
& decreed Missi

" 1st March Rules taken
the last Monday in
Feby D. & N. Confirmed
Cause set for hearing

E. W. PENNINGTON.

ROBT. L. PENNINGTON.

Pennington Bros.

ATTORNEYS AT LAW,

JONESVILLE AND PENNINGTON GAP VA.